

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

WERNER ENTERPRISES, INC.,

Defendant;

and

ANDREW DEUSCHLE,

Plaintiff Intervenor,

v.

WERNER ENTERPRISES, INC.,

Defendant.

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

v.

DRIVERS MANAGEMENT, LLC and
WERNER ENTERPRISES, INC.,

Defendants.

**CASE NO: 8:18-CV-329-JMG-SMB
Jury Trial Demanded**

**JOINT MOTION FOR EXTENSION OF
TIME OF AMENDED PROGRESSION
ORDER DEADLINES**

**CASE NO: 8:18-CV-462-JMG-SMB
Jury Trial Demanded**

**JOINT MOTION FOR EXTENSION OF
TIME OF AMENDED PROGRESSION
ORDER DEADLINES**

COMES NOW, Plaintiff Equal Employment Opportunity Commission, Plaintiff Intervenor Andrew Deuschle, and Defendants Drivers Management, LLC and Werner Enterprises, Inc., by and through undersigned counsel, hereby move the Court for an entry of an order extending the following deadlines previously set in the Seconded Amended Final Progression Order (ECF No. 62). In support of its Motion, the parties show the Court as follows:

1. Despite the parties' diligence in the progression of this litigation, the parties request the following extension of the deadlines set by the Court's Second Amended Final Progression Order to accommodate Defendants' and their counsel's schedules in scheduling three depositions noticed by Plaintiff EEOC.

2. On July 26, 2019, Plaintiff EEOC served upon the parties three deposition notices: Rule 30(b)(6) Deposition of Defendants, Rule 30(b)(1) Deposition of Jaime Maus, Werner's Vice President of Safety, and Rule 30(b)(1) Deposition of Scott Hollenbeck, Werner's Director of Compliance. On that same date, Plaintiff EEOC also served a Request for Entry on Land for Inspection of Tangible Things Pursuant to Fed. R. Civ. P. 34(a) to allow its expert to inspect Defendants' over-the-road truck driver's job functions and Student Driver Training Program. Plaintiff EEOC served these fact discovery requests to obtain discovery necessary for preparation of its expert's report, then due September 9, 2019.

3. On August 13, 2019, Defendants informed Plaintiff EEOC that the first available dates for all Werner counsel and witnesses for the noticed depositions are in November 2019. The parties agreed to conduct the depositions on November 12, 13, and 14, 2019. The parties also agreed that if Defendants' objections to EEOC's Rule 34 Request for Entry on Land were resolved, the inspection would occur on November 22, 2019. For those reasons, the parties respectfully requested the Court extend the relevant deadlines sent in the Amended Final Progression Order (ECF No. 59) and the Court granted the request resulting in Second Amended Final Progression Order (ECF. No. 62).

4. In October, Defendants informed Plaintiff that Defendants' counsel were no longer available for deposition on November 12, 2019 because defense counsel had received notice that the United States Court of Appeals for the Eighth Circuit had set an appeal in which

defense counsel are involved for oral argument on that date. Defendants asked Plaintiff and Intervenor whether they could conduct the three noticed depositions in two days. Defendants explained that they would likely designate three or more witnesses in response to Plaintiff's Rule 30(b)(6) deposition notice. As a result, Plaintiff and Intervenor concluded that they would not be able to conduct the deposition of Ms. Maus, deposition of Mr. Hollenbeck, and the 30(b)(6) deposition of three or more individuals in two days. Plaintiff proposed depoing Defendants' 30(b)(6) witnesses on a portion of the topics identified in the 30(b)(6) notice during November and then the remainder of the topics at a later date; however, Defendants did not want to proceed piecemeal with the depositions and have witnesses appear multiple times for depositions. Defendants, their counsel, and their witnesses are next available on January 29, 30, and 31, 2020. Plaintiff and EEOC have agreed to conduct the depositions on those dates.

5. Thus, in the spirit of cooperation, the parties agreed to respectfully request that the Court enter an order extending the relevant deadlines as follows:

Event	Current Deadline	Proposed Extension
Deadline for identifying expert witnesses expected to testify at the trial and completing expert disclosures, (both retained expert (Fed. R. Civ. P. 26(a)(2)(B)) and non-retained experts (Fed. R. Civ. P. 26(a)(2)(C) – for Plaintiff	December 13, 2019	February 14, 2020
Deadline for identifying expert witnesses expected to testify at the trial and completing expert disclosures, (both retained expert (Fed. R. Civ. P. 26(a)(2)(B)) and non-retained experts (Fed. R. Civ. P. 26(a)(2)(C) – for Intervenor	December 13, 2019	February 14, 2020
Deadline for identifying expert witnesses expected to testify at the trial and completing expert disclosures, (both retained	January 24, 2020	March 27, 2020

Event	Current Deadline	Proposed Extension
expert (Fed. R. Civ. P. 26(a)(2)(B)) and non-retained experts (Fed. R. Civ. P. 26(a)(2)(C) – for Defendants		
Deadline for completing written discovery under Fed. R. Civ. P. 33, 34, & 36	January 24, 2020	March 27, 2020
Deadline for filing motions to compel under Fed. R. Civ. P. 33, 34, & 36	February 7, 2020	April 7, 2020
Deadline for completing expert disclosures for all experts expected to testify at the trial, (both retained expert (Fed. R. Civ. P. 26(a)(2)(B)) and non-retained experts (Fed. R. Civ. P. 26(a)(2)(C) – for Plaintiff's Rebuttal	March 6, 2020	May 6, 2020
Deadline for completing expert disclosures for all experts expected to testify at the trial, (both retained expert (Fed. R. Civ. P. 26(a)(2)(B)) and non-retained experts (Fed. R. Civ. P. 26(a)(2)(C) – for Intervenor's Rebuttal	March 6, 2020	May 6, 2020
Non-expert deposition deadline	March 6, 2020	May 6, 2020
Expert deposition deadline	April 24, 2020	June 19, 2020
Deadline for filing motions to exclude testimony on <i>Daubert</i> and related grounds	June 12, 2020	July 27, 2020
Deadline for filing motions to dismiss and motions for summary judgment	June 26, 2020	August 10, 2020
Deadline for parties' Proposed Pretrial Conference Order and Exhibit List(s)	12:00 p.m. on September 30, 2020	
Pretrial Conference for EEOC <i>v. Werner Enters., Inc.</i> , Case No. 8:18-CV-00329	10 a.m. on October 5, 2020	
Trial in EEOC <i>et al v. Werner Enters., Inc.</i> , Case No. 8:18-CV-00329	9 a.m. on October 26, 2020	
Deadline for parties' Proposed Pretrial Conference Order and	12:00 p.m. on November 17, 2020	

Event	Current Deadline	Proposed Extension
Exhibit List(s) in <i>EEOC v. Drivers Mgmt. LLC & Werner Enters., Inc.</i> , Case No. 8:18-cv-00462		
<i>Pretrial Conference for EEOC v. Drivers Mgmt. LLC & Werner Enters., Inc.</i> , Case No. 8:18-cv-00462	10:00 a.m. on November 20, 2020	
<i>Trial in EEOC v. Drivers Mgmt. LLC & Werner Enters., Inc.</i> , Case No. 8:18-cv-00462	9:00 a.m. on December 14, 2020	

6. The parties suggest discussing the rescheduling of the deadlines to file the parties' proposed pretrial conference order and exhibit lists, the pretrial conference, and trial during the previously scheduled conference on November 5, 2019.

WHEREFORE, the parties respectfully request that the Court enter an order extending deadlines set in the Amended Final Progression Order as stated above.

DATED this 1st day of November, 2019.

[signature blocks on following page]

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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the counsel of record listed below:

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